

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**ESTATE OF VIRGINIA A. BATES—  
DECEASED AND TIMOTHY BATES,**

***Plaintiff,***

**v.**

**U.S. BANK, N.A. AND SHELLPOINT  
MORTGAGE SERVICING, LLC,**

***Defendants.***

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**CIVIL ACTION NO. 4:20-cv-00831**

**JOINT MOTION FOR CONTINUANCE**

Plaintiff Estate of Virginia A. Bates—Deceased and Timothy Bates (“Plaintiff”) and Defendants U.S. Bank, NA and Shellpoint Mortgage Servicing, LLC (“Defendants”) jointly move for a continuance of the June 28, 2021 trial setting and related deadlines and would respectfully show as follows:

1. The Parties request a continuance in order to allow the Court time to consider Defendants’ Motions for Summary Judgment, as well as the associated briefing. Jury selection in this matter is currently set for June 28, 2021, with docket call taking place on June 25th and the Joint Pretrial Order due on June 21st. This is the Parties’ first request for a continuance.

2. As a brief background, Defendants removed the case to this Court on March 9, 2020 and filed a Motion to Dismiss.<sup>1</sup> Defendants also filed a Motion for Leave to Add Counterclaim on July 7, 2020.<sup>2</sup> The Motion for Leave was unopposed.

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<sup>1</sup> Notice of Removal (Doc. 1); Motion to Dismiss (Doc. 4).

<sup>2</sup> Doc. 10.

3. On February 24, 2021, Defendants filed a Motion for Summary Judgment as to Plaintiff's Claims<sup>3</sup> and a separate Motion for Summary Judgment as to its Counterclaim for Judicial Foreclosure.<sup>4</sup> Plaintiff responded to Defendants' Motion for Summary Judgment as to the Counterclaim,<sup>5</sup> but did not file a response to the Motion for Summary Judgment as to Plaintiff's Claims. Defendants filed a Motion to Strike the evidence Plaintiff presented in his Response to Summary Judgment on March 24, 2021.<sup>6</sup> Plaintiff filed a response to the Motion to Strike.<sup>7</sup>

4. On March 23, 2021, the Court granted in part and denied in part Defendants' Motion to Dismiss.<sup>8</sup> It also granted Defendants' leave to file their counterclaim.<sup>9</sup>

5. Both of Defendants' Motions for Summary Judgment, as well as their Motion to Strike, are pending. The Parties believe that many of the outstanding issues in contention in this litigation are addressed in those Motions and believe Court consideration of the motions would be the most efficient way of narrowing the issues prior to trial (if necessary). Therefore, the Parties request the Court grant this continuance of the trial setting, deadline for Defendants' to submit to Plaintiff their pre-trial order, and deadline for the Parties to file the final pre-trial order to the Court for 120 days or for such time as the Court deems necessary.

6. This continuance is not sought for purposes of delay, but so that justice may be done.

For these reasons, Plaintiff Estate of Virginia A. Bates—Deceased and Timothy Bates and Defendants U.S. Bank, NA and Shellpoint Mortgage Servicing, LLC respectfully request the Court

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<sup>3</sup> Doc. 12.

<sup>4</sup> Doc. 13.

<sup>5</sup> Pl.'s Resp. to Defs.' Mot. for Summ. J. (Doc. 14).

<sup>6</sup> Doc. 17.

<sup>7</sup> Doc. 19.

<sup>8</sup> Doc. 15.

<sup>9</sup> *Id.*

GRANT this Joint Motion for Continuance and for such other and further relief to which they may be justly entitled.

Respectfully submitted this 4<sup>th</sup> day of June, 2021.

By: /s/ Melissa S. Gutierrez

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**And**

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*Attorney for Plaintiff*

**CERTIFICATE OF SERVICE**

I certify that on this 4th day of June, 2021, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send notice of electronic filing to the following counsel of record:

***Via email: [Erick.delarue@delaruelaw.com](mailto:Erick.delarue@delaruelaw.com)***

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*/s/ Melissa Gutierrez*

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Melissa Gutierrez